

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Medical Examining Board to amend Med 10.03 (3) (h), relating to unprofessional conduct.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.015 (4) (am) 1., Stats.

Statutory authority:

Section 15.08 (5) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Related statute or rule:

Section SPS 4.09 sets forth provisions related to credential holder charges and convictions.

Plain language analysis:

The proposed rule revises the Board’s rules related to professional conduct. Specifically, s. Med 10.03 (3) (h) is revised to clarify a licensee is required to comply with the reporting requirement under s. SPS 4.09 (2).

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: The Illinois Statutes authorize the Illinois Department of Financial Regulation to take disciplinary or non-disciplinary action against a physician’s license. Grounds for action include failure to report to the Department any adverse final action taken against a physician by any law enforcement agency or any court, for acts or conduct similar to acts or conduct that would constitute grounds for action against the physician’s license [225 ILCS 60/22 (A) (34)].

Iowa:

Rules of the Iowa Board of Medicine provide the Board with authority to impose disciplinary sanctions for certain acts and offenses (653 IAC 23.1). The rules do not specifically provide that a physician may be subject to a disciplinary sanction for failure to report a conviction.

Michigan:

The Michigan Public Health Code requires a licensee or registrant to notify the Michigan Department of Licensing and Regulatory Affairs of any criminal conviction within 30 days after the date of the conviction. Failure of a licensee or registrant to notify the Department under this subsection shall result in administrative action against the license or registration [MCL 333.16222 (3)].

Minnesota:

The Minnesota Statutes require a physician to self-report to the Minnesota Board of Medical Practice within 30 days of any judgement or other determination of a court of competent jurisdiction that adjudges or includes a finding that a physician is guilty of a felony or a violation of a federal or state narcotics law or controlled substances act (2020 Minnesota Statutes, Section 147.111).

Summary of factual data and analytical methodologies:

The proposed rules were developed by obtaining input and feedback from the Medical Examining Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:00 a.m. on April 21, 2021, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med 10.03 (3) (h) is amended to read:

Med 10.03 (3) (h) Failing, within 48 hours of the entry of judgement of conviction of any crime, to provide notice as required under s. SPS 4.09 (2), or failing, within 30 days of conviction of any crime, to provide the board with certified copies of the criminal complaint and judgment of conviction.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
